

United States District Court
Eastern District of California

David L. Fulbright,

Petitioner,

vs.

D. L. Runnels, Warden,

Respondent.

No. Civ. S 04-2490 DFL PAN P

Order

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Petitioner, a state prisoner proceeding without counsel, applied for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 and requested leave to proceed in forma pauperis.

Examination of his affidavit reveals petitioner is unable to afford the costs of suit. Leave to proceed in forma pauperis is granted. See 28 U.S.C. § 1915(a).

A judge "entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing

1 the respondent to show cause why the writ should not be granted,
2 unless it appears from the application that the applicant or person
3 detained is not entitled thereto." 28 U.S.C. § 2243. Petitioner
4 may be entitled to relief.

5 I therefore grant petitioner's request to proceed in forma
6 pauperis and direct respondent to respond to petitioner's
7 application within 60 days. See Rule 4, Fed. R. Governing § 2254
8 Cases. An answer shall be accompanied by any and all transcripts
9 or other documents relevant to the determination of the issues
10 presented in the application. See Rule 5, Fed. R. Governing § 2254
11 Cases. Petitioner's reply, if any, shall be filed and served
12 within 30 days of service of an answer. If the response to
13 petitioner's application is a motion, petitioner's opposition or
14 statement of non-opposition shall be filed and served within 30
15 days of service of the motion, and respondent's reply, if any,
16 shall be filed within 15 days thereafter. The Clerk of the Court
17 shall serve a copy of this order together with a copy of
18 petitioner's November 22, 2004, petition for a writ of habeas
19 corpus pursuant to 28 U.S.C. § 2254 on Jo Graves, Attorney General
20 for the State of California.

21 Dated: April 26, 2005.

22 /s/ Peter A. Nowinski
23 PETER A. NOWINSKI
24 Magistrate Judge
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